

29 January 2026

Tēnā koe [REDACTED]

**LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT Request:  
2026-10**

Thank you for your email of Sunday 25 January 2026 to the Carterton District Council attached as **Appendix A**.

Your request has been considered under the Local Government Official Information and Meetings Act 1987 (the Act).

Your email appears to be a new LGOIMA request not a clarification of the original. The original request you refer to was made by [REDACTED] and yourself as:

*We request, pursuant to the LGOIMA, all information considered and/or relied upon in relation to the views and opinions expressed in the **letter of 27 November 2025***

The email of 25 January 2026 in your name only suggests the original LGOIMA request was misinterpreted and attempts to reframe the request as:

*I was asking for the correspondence that proceeded your decision to issue your **notice to fix** and the correspondence that was subsequent to it*

These are two different issues, consequently we have considered your clarification email as a new LGOIMA request. I will respond to questions on both issues below.

25 November 2025 Letter to all Flat Point beach owners

Council's letter of 27 November 2025 relates to our interpretation of the consent conditions at the Flat Point Beach subdivision, and outlines how we propose to treat all new building consents received which are subject to these consent conditions.

As mentioned in our letter of 27 November 2025, Council considered the original consent decision; the Environment Court submissions and the Environment Court appeal decision; the August 2001 letter signed by M.F. Hautler - Councils Planning & Regulatory Manager at the time; the actual consent notices registered against titles, relevant legislation and relevant case law.

This information is all either publicly available or has already been proactively released by Council. Other information and correspondence relied upon between staff and with our legal advisors are withheld under s7(2)(a), s7(2)(f)(i) and s7(2)(g) of the Local Government Official Information and Meetings Act ("the Act").

19 December 2025 Notice to Fix to [REDACTED]

The Notice to Fix is a specific issue regarding the [REDACTED] garage build. Council proactively sent you a copy of this Notice to Fix issued to the [REDACTED] your neighbours, on 22 December 2025.

Your new LGOIMA request seeks:

*"the correspondence that proceeded your decision to issue your notice to fix and the correspondence that was subsequent to it."*

Previously, I have withheld the release of information and correspondence regarding the [REDACTED] garage while we are undertaking our investigation regarding this building. Our investigations are continuing and our position has not changed.

Attached in **Appendix B** is my email dated 1 December 2025 where I list the different occasions your requests for information regarding the [REDACTED] build have been withheld due to privacy and confidentiality. That email was the sixth time your information request was withheld.

Your new request dated 25 January 2026 for information and correspondence regarding the Notice to Fix is also withheld, under s7(2)(a), s7(2)(f)(i) and s7(2)(g) of the Act.

Where information has been withheld under section 7(2), I have considered, as required under section 7(1) of the Act, the public interest considerations favouring its release. I have identified no public interest considerations which outweigh the need to withhold information at this time.

Please note, the Council proactively publishes LGOIMA responses on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.



You have the right to ask an Ombudsman to review this decision. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Geoff Hamilton', with a stylized flourish at the end.

Geoff Hamilton  
**Chief Executive**  
**Carterton District Council**

RELEASED UNDER LGOIMA

s7(2)(a)

**From:** [REDACTED]  
**Sent:** Sunday, 25 January 2026 11:43 am  
**To:** Geoff Hamilton  
**Cc:** [REDACTED] LGOIMA Requests  
**Subject:** Re: Notice To Fix NF087

**Caution:** This email originated from outside the council. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Your refusal to answer my request misunderstands the meaning of the word information. I was not seeking your legal advice although of course you have disclosed it on several occasions already. I was asking for the correspondence that proceeded your decision to issue your notice to fix and the correspondence that was subsequent to it. None of which was subject to legal professional privilege.

There were obviously more emails that are within the scope of information. Please reassess your response and reply or this is a further matter we will take up with the Ombudsman.

[REDACTED]

On Thu, 22 Jan 2026 at 3:59 PM, Geoff Hamilton <[geoffh@cdc.govt.nz](mailto:geoffh@cdc.govt.nz)> wrote:

Dear [REDACTED]

Thank you for sharing your views on the Notice To Fix we have issued to your neighbours, following your complaint. Your

I have shared your views with our legal advisor for their consideration, if appropriate. For clarity neither Council nor our legal advisors intend to respond to your email. I can however confirm Council took legal advice before issuing the Notice and we remain confident with our position following your email.

With respect to your Local Government Official Information and Meetings Act 1987 request to release:

*"all information considered and/or relied upon in relation to the views and opinions expressed in the letter of 27 November 2025."*

I decline your request for the above information under S7(2)(g) of the Act, which provides for Council to maintain legal professional privilege. I do not consider the circumstances for withholding the information are outweighed by the public interest in this instance.

Sincerely

**Geoff Hamilton** | Chief Executive | Tumuaki Rangatira

**CARTERTON DISTRICT COUNCIL** | TE KAUNIHERA-Ā-ROHE O TARATAHI

[geoffh@cdc.govt.nz](mailto:geoffh@cdc.govt.nz) | 0274 872 099 | 06 379 4030

PO Box 9, Carterton 5743 | [28 Holloway Street, Carterton](https://www.cdc.govt.nz) | [www.cdc.govt.nz](https://www.cdc.govt.nz)



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**From:** [REDACTED]  
**Sent:** Friday, January 16, 2026 4:32 PM  
**To:** Geoff Hamilton <[geoffh@cdc.govt.nz](mailto:geoffh@cdc.govt.nz)>  
**Cc:** [REDACTED]  
**Subject:** Notice To Fix NF087

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Greetings Geoff,

We refer to the Notice To Fix NF087 issued to [REDACTED] in respect of [REDACTED] Beach Road, Flat Point, Masterton 5883.

The Notice, issued pursuant to the Building Act 2004, requires the [REDACTED]

“To remedy the contravention or non-compliance:

- 1) Make a satisfactory application for a certificate of acceptance in accordance with section 97 of the Building Act 2004 or
- 2) Remove the unconsented building work.”

In this case option 1, a certificate of acceptance, is not a remedy available to the [REDACTED].

Section 42A(2)(c) of the Building Act provides that

“Subsection (1),” which exempts the requirement for building consents, “is subject to the following conditions:

.....

(c) the building work does not breach any other enactment”

The structure is in breach of other enactment(s). The Council has received legal confirmation of this which it has acknowledged.

In the letter to shareholders dated 27 November 2025, at paragraph 28, the CDC stated

“Recent case law confirms that non-compliance with a consent notice is a property law matter and is not a breach of the RMA. This is because a consent notice creates a property interest in the form of an easement in gross.”

This is incorrect for the following reasons.

1. The quote has been taken out of context. The case referred to, *Clark v Butt* [2025] NZEnC 163, was an interlocutory application which resulted in the application for an enforcement order being struck out. *Clark v Butt* did not decide that the RMA does not apply, contrary to CDC’s claim. That was a submission by the Respondents. It was not a finding of the Court.
2. You have conflated two issues. As noted, the building work must not breach any other enactment. It does, the RMA.

3. Even if the respondents' submissions in *Clark v Butt* are correct and it is a property law matter, not an RMA matter, other enactments apply, in particular the Property Law Act 2007 and the Land Transfer Act 2017. *Speargrass Holdings Limited v Queenstown Lakes District Council* [2018] NZHC 1009.
4. Whether a consent notice is deemed to be an instrument creating an interest in land, and a covenant running with the land when registered under the Land Transfer Act 2017, is irrelevant.

While there remains a clear breach of the RMA or other enactment, retrospective building consent cannot be granted. The [REDACTED] only option in relation to the Notice is to remove the non-compliant structure by 1 October 2026.

For the avoidance of doubt, we reiterate our view that CDC's stance expressed in the letter of 27 November 2025 in respect of the scope to move building platforms, long after they were settled upon, is clearly wrong. It is also inconsistent with the legal advice Council previously obtained.

We request, pursuant to the LGOIMA, all information considered and/or relied upon in relation to the views and opinions expressed in the letter of 27 November 2025.

Yours sincerely,

[REDACTED]



s7(2)(a)

**From:** Geoff Hamilton  
**Sent:** Monday, 1 December 2025 8:48 am  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Online form submission - Public Complaint - 09-09-2025 17:44:25

Greetings [REDACTED]

I acknowledge your email and your latest requests.

On 12<sup>th</sup> August 2025 at 1:21PM I emailed [REDACTED] and yourself and stated:  
*...we will progress an investigation regards the [REDACTED] garage and any potential non-compliance. While we work through our investigation with the owners, they have an expectation of privacy, so we are unfortunately unable to share anything further with you at this time. We will inform you of the outcome of our investigation in due course.*

On 5<sup>th</sup> September 2025 at 3:36PM I emailed a group of Flat Point residents including [REDACTED] and yourself and stated:  
*With regards the complaint against the [REDACTED] build - our team are dealing with the individual property owners. The matter is ongoing. I do not currently have a timeframe for resolution.*

On 25<sup>th</sup> September 2025 at 1:51PM I emailed [REDACTED] and yourself and stated:  
*I acknowledge your keen interest in the [REDACTED] build. Rest assured Council are acting on this matter. However, in my opinion your interest does not supersede the [REDACTED] right to privacy and confidentiality during our engagement.*

On 3<sup>rd</sup> October 2025 at 3:55PM I emailed [REDACTED] and yourself and stated:  
*I can confirm we are engaging with the [REDACTED] and the communication is reciprocal. At this stage I'm not prepared to say anything more on the [REDACTED] garage build.*

On 30<sup>th</sup> October 2025 at 4:53PM I emailed [REDACTED] and yourself and stated:  
*I will attempt to succinctly clarify my previous comments.*

- *Your complaint against the [REDACTED] build is an open investigation.*
- *We are working with the [REDACTED] however our investigation is not yet resolved.*
- *As I have previously stated - while the investigation is ongoing we are unable to share details with you.*
- *I acknowledge yourself and [REDACTED] are the complainants, however this does not supersede the privacy and confidentiality obligations of Council.*

On 25<sup>th</sup> November 2025 at 3:56PM I emailed Flat Point Residents, including [REDACTED] and yourself with a proactive information release. In this release I stated the reasons for withholding information included:

- s7(2)(a) -Privacy (individuals names, contact details, email address, physical addresses, phone numbers, property addresses and other personal information that might identify individuals and property owners, includes Council staff whose details are not already public.)
- s7(2)(f)(i) – To maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority in the course of their duty (information and communications between council and individual property owners where Council is investigating potential breaches of legislation or consent conditions.)



- s7(2)(g) – Legal privilege (*communications between Council and our legal advisors.*)

In this email I also stated where information has been withheld under section 7(2), I considered, as required under section 7(1) of the Act, the public interest considerations favouring its release. I have identified no public interest considerations which outweigh the need to withhold information at this time.

Our investigation is ongoing and therefore our position has not changed. Consequently I refuse your request for information under s7(2)(a) and s7(2)(f)(i) under the Local Government Official Information and Meetings Act. I can identify no public interest consideration which outweigh the need to withhold this information at this time.

Sincerely

**Geoff Hamilton** | Chief Executive | Tumuaki Rangatira  
**CARTERTON DISTRICT COUNCIL** | TE KAUNIHERA-Ā-ROHE O TARATAHI

[geoffh@cdc.govt.nz](mailto:geoffh@cdc.govt.nz) | 0274 872 099 | 06 379 4030

PO Box 9, Carterton 5743 | 28 Holloway Street, Carterton | [www.cdc.govt.nz](http://www.cdc.govt.nz)



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**From:** [REDACTED]  
**Sent:** Thursday, November 20, 2025 6:03 PM  
**To:** Geoff Hamilton <[geoffh@cdc.govt.nz](mailto:geoffh@cdc.govt.nz)>  
**Cc:** [REDACTED]  
**Subject:** FW: Online form submission - Public Complaint - 09-09-2025 17:44:25

**Caution:** This email originated from outside the council. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Geoff,

The Ombudsman's Office has sent us the following email.

It suggests we formally request the Council to investigate the non-compliance and also consider issuing an abatement notice. We do so. To avoid any doubt, we seek the Council to issue an abatement notice. If it has not already done so, and continue its investigation. Please advise whether that has occurred and what stage it has reached.

We also seek:

All internal and external information from 17 April 2025 until 20 November 2025 relating to the [REDACTED]  
That includes all information, of whatever nature relating to our neighbouring property, and ours, but is not limited to, anything that might have a bearing on our LGOIMA request.

The Office said, "In this situation, your initial complaint to the Council seems to be very close to the start of the actual abatement process, so I wonder if you have any thoughts or documentation as to this specific avenue?"

We will be taking that opportunity up.

[REDACTED]  
From: [REDACTED] [ombudsman.parliament.nz](mailto:ombudsman.parliament.nz)>  
Date: Thu, 20 Nov 2025 at 14:12  
Subject: RE: Online form submission - Public Complaint - 09-09-2025 17:44:25  
To: [REDACTED]

Dear [REDACTED]

Thank you for the messages you sent through.

We appreciate your patience while we planned how to approach your complaint regarding the construction of your neighbour's structure. We understand this issue has been ongoing for some time, and that you have felt frustrated to see the work continuing, given your concerns about it potentially exceeding approved parameters of the resource consent and impacting your property. We also know you are awaiting a definitive word from the Council.

## **Update**

I wanted to let you know that we have sent preliminary inquiries to the Council and we expect to receive a response shortly.

## **Managing Expectations: The Ombudsman's Role**

We should be clear about what you should expect from the Ombudsman. It is important to note that while we will work to achieve fairness and transparency in any event, the Ombudsman does not have injunctive powers.

This means that while we can review the actions and decisions of the Council, we cannot issue an order or direct to the Council to stop the construction work immediately. Our role focuses on determining whether the Council acted reasonably and followed correct administrative procedures. We may be able to recommend remedies or changes to Council processes, but we cannot legally intervene in the physical construction.

## **Alternative Avenue: Abatement Notices and Enforcement orders**

Given that your primary concern right now appears to be the continuation of the construction itself, have you considered other options, such as the possible utility of an abatement notice or an enforcement order?

- **What they are:** An abatement notice is a formal direction, typically issued by a local council under resource management or building legislation, to require a person to stop an activity or remedy an effect that is causing a breach (e.g., if the construction work is found to be non-compliant with the Resource Consent or Building Consent). An enforcement order differs from an abatement notice in that anybody (not just the council) can apply for an enforcement order against somebody else. These are issued by the Environment Court rather than the council.
- **How they work:** The complainant must formally request the Council to investigate the non-compliance and also consider issuing an abatement notice. If the Council is satisfied that a breach or adverse effect is occurring, they have the power to issue the notice, which carries legal weight and requires compliance. Anybody can apply to the Environment Court for an enforcement order to get someone to stop doing something that may be affecting the environment. The Court will hold a hearing. Enforcement orders are best suited to ongoing problems rather than urgent problems that need to be fixed quickly. However, an interim enforcement order can be issued immediately so that the environment is protected while the Court considers the full enforcement order.

In this situation, your initial complaint to the Council seems to be very close to the start of the actual abatement process, so I wonder if you have any thoughts or documentation as to this specific avenue? You can find more information at:

<https://environment.govt.nz/publications/understanding-the-rma-and-how-to-get-involved/> and the attached PDF. I understand this information might already be familiar to you, but I thought it best to share in case it might be of use.

While we are proceeding with our preliminary inquiries, you may wish to consider contacting the Council's compliance department directly, if you have not already, to inquire about initiating an abatement process based on the alleged breaches, or consider applying for an enforcement order, if you are seeking to have the construction halted. You may also wish to seek legal advice on your options in this regard.

We will be in touch again once we have received and reviewed the initial information from the Council. Thank you again for your patience.

Yours sincerely,

[Redacted Signature]

Investigator

Office of the Ombudsman | Tari o te Kaitiaki Mana Tangata

DDI [Redacted] | Phone 0800 802 602 | Fax 04 471 2254

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